

<b>Item No.</b> 8.2	<b>Classification:</b> Open	<b>Date:</b> 20 October 2010	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Gambling Act 2005 – Three Year Revision of Southwark Statement of Gambling Licensing Policy	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Licensing Committee	

## RECOMMENDATION

1. That the assembly agrees the recommendation of the licensing committee and resolves to adopt the revised Southwark statement of gambling licensing policy for 2010 – 2013 with effect from 1 December 2010.

## BACKGROUND INFORMATION

2. The Gambling Act 2005 came into effect on 1 September 2007. The Act established a new licensing regime for all gaming and betting in Great Britain, other than spread betting and the national lottery.
3. The Act established the gambling commission as the unified regulator for gambling. The commission has responsibility for granting operating and personal licences for commercial gambling operators and key personnel working in the industry.
4. Licensing authorities support the work of the commission and have separate responsibility for licensing gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines. Categories of gambling premises covered by the licensing regime include:
  - casinos;
  - bingo halls;
  - adult gaming centres;
  - family entertainment centres;
  - betting premises.
5. The Act contains three licensing objectives, which underpin the functions that the commission and licensing authorities perform. These objectives are central to the Act. They are:
  - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way; and
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
6. Section 349 of the Act requires each licensing authority to prepare and publish, every three years, a statement of the principles they propose to apply in

exercising their functions under the Act. The statement, which may also be referred to as a “policy”, can be reviewed and re-published during the three year period in which it has effect. In preparing the statement, licensing authorities must follow the procedure set out in the Act, including who should be consulted.

7. The Southwark statement of gambling licensing policy 2007 – 2010 forms the authority’s current statement of principles. The original statement was formally approved by council assembly on 6 December 2006. The policy document was formally published on 3 January 2007.
8. A revised policy statement for 2010 – 2013 has been compiled taking into account responses from a public consultation exercise conducted during the autumn of 2009. A copy is provided at appendix 1 to this report. This revision was considered by the council’s licensing committee at its meeting on 28 September 2010 and is now recommended to the assembly for adoption accordingly.

## **KEY ISSUES FOR CONSIDERATION**

### **Compilation of the policy statement**

9. Section 153 of the 2005 Act sets out that “In exercising their functions under (the Act) a licensing authority shall aim to permit the use of premises for gambling in so far as the authority thinks that it is:
  - in accordance with any relevant code of practice (issued by the commission);
  - in accordance with any relevant guidance issued by the commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the statement published by the authority.”
10. The gambling commission first published its Guidance to Licensing Authorities in May 2007. The latest edition (the third) was published in May 2009.
11. The commission has also published a range of codes of practice covering the breadth of gaming and betting activity.
12. This draft revision of the policy statement has been compiled having had regard to the Act and regulations, the guidance issued by the commission; and the various codes of practice also issued by the commission. Regard has also been had to the format and content of the model statement of principles produced by the former local authorities’ coordinator for regulatory services (LACORs), now local government regulation (LGR).

### **Main revisions**

13. As many of the regulations to the 2005 Act were only available in draft form at the time that this authority’s original statement of policy was approved and as the commission’s guidance is now on it’s third revision, the statement of policy is subject to minor amendment throughout. Accordingly, the main revisions to the original policy comprise technical updates arising from amendments to the gambling commission’s guidance for local authorities. Some of the most important updates are summarized below:

- Revised advice (based on commission guidance) is provided through sections 100 to 103 of the draft policy, on the definition of ‘premises’. This information examines, in particular, considerations this authority will take into account when determining whether an application to ‘split’ a licensed premises amounts to either ‘artificial’ or ‘temporary separation’ of premises for the purposes of enabling higher quotas of high payout ‘jackpot’ gaming machines than are provided for by the governing legislation;
  - Sections 104 to 108 provide new advice on when a premises may be considered to be “ready for gambling” helping to clarify the circumstances under which applications for either ‘provisional’ or ‘full’ premises licences may be made and considered;
  - Section 154 to 163 of the draft policy now contains full information on the commission’s relevant access provisions for each gambling premises type;
  - Section 156 returns to the issue of ‘split’ premises with particular regard to bingo premises and applications for multiple licences; and
  - Sections 194 to 197 provide new information, following the publication of new regulations, concerning the use of temporary event notices for poker tournaments.
14. This council’s primary responsibility as licensing authority is for the licensing of Southwark premises used for gaming and betting and the authority’s primary concern rests with the third licensing objective, that of “protecting children and other vulnerable persons from being harmed or exploited by gambling”. As such this council recognises within it’s licensing policy, the contribution made toward achieving this objective by the commission’s social responsibility code of practice and the conditions of the commission’s related personal and operator’s licensing regimes. The policy also recognises direct requirements made by the commission on operators to have policies and procedures in place for promoting socially responsible gambling; providing clear information about responsible gambling and help available to problem gamblers; and providing training for staff about possible problem gambling and how to identify it. The policy further notes restrictions on access by children and young people to gambling premises. The policy complements the legislative position and steps taken by the commission by providing local advice and guidance on age identification and management of age restricted gaming machines in premises where children and young people may be admitted. The policy also continues to acknowledge the Southwark safeguarding children board as the competent body to advise on child safety matters and contributions made to the original policy by the board remain relevant.
15. The revised policy now additionally recognises the Southwark safeguarding adults board as the competent body to advise on matters around vulnerable adults and, in future, reference will be made to this body where relevant issues arise.

### **Response from public consultation**

16. Public consultation was conducted on the draft revision of the policy between 1 September and 20 November 2009.

17. As part of the consultation
  - Information was published in the local media and on the Southwark licensing web site;
  - Direct letter drops were made to
    - local premises licence holders;
    - responsible authorities specified under the Act; and
    - known trade representative organisations;
    - known representatives of community representative groups; and
    - ward councillors;
  - Information was made available to community council meetings.
18. Whereas public consultations undertaken in recent years on development of policy around the 2003 Licensing Act (dealing with alcohol, entertainment and late night refreshment) have received good levels of response, the response to consultation on the 2005 Act was again disappointing, perhaps reflecting the lower levels of interest in this matter.
19. In total only 6 responses were received, three from responsible authorities, two from other interested services; and one from a trade organisation. A summary of the responses, setting out the points made and responses to each point, is provided at appendix 2 to this report.
20. Responses to the consultation include confirmation on behalf of the borough commander that the revised policy is supported by the metropolitan police.

### **Community impact statement**

21. As established by the licensing objectives set out in the Act, this legislation intends to help ensure that authorised gambling activity is not associated with crime; is conducted in a fair and open way; and with adequate protections for children and vulnerable people.
22. The licensing processes applied by this authority are consistent with those established by statute by way of the Act and related regulations and the further guidance and direction given by the gambling commission.
23. The council has a duty to consider every application for relevant licences and consents made to it. Each application is considered upon its own merits with all relevant matters taken into account. There are no artificial barriers provided by this policy or by any council process or practice to any person wishing to make a licence application nor any person who qualifies as an 'interested party' under the Act from having their views on an application taken into account.
24. This policy revision forms a technical update to the original policy published in 2007.
25. The policy maintains local policy concerning the location of gambling premises in areas where there may be particular issues relating to children and vulnerable people. Furthermore, the policy provides commitment to supporting the commission as and 'eyes and ears' enforcement agency within the Southwark area.
26. The initial statement of policy was subject of an equalities impact assessment.

The assessment has been revisited in the light of the revisions. No new issues have been raised by the revisions.

### **Resource implications**

27. There are no specific resource implications contained within this report.

### **Consultation**

28. Details of public consultation carried out in preparation of this report are detailed in sections 16 to 20 of this report.

29. The cabinet member for community safety made the following comments:

“This revision of the council’s statement of gambling licensing policy primarily represents a technical update of the content incorporating new guidance developed since the original policy was first established in 2007.

The policy sets out how this council, as licensing authority, approaches its responsibilities for the licensing of gaming and betting establishments paying particular attention to the authority’s primary concern of protecting children and vulnerable adults from being harmed or exploited by gambling. I am particularly pleased to note that this revision further strengthens the authority’s ability to meet its responsibilities by introducing and recognising the safeguarding adults board as the competent authority to advise on matters regarding the safeguarding of vulnerable adults.”

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

30. Council assembly is asked to consider the recommendation contained in paragraph 1 of this report and when doing so be satisfied that the licensing authority has adhered to the provision of Section 349 of the Gambling Act 2005.

31. The assembly is advised that section 349 of the Act imposes a duty on the gambling authorities to review and revise its statement of gambling licensing policy each successive three years and, and if the authority thinks it necessary in the light of a review, revise the statements and publish any revision before giving effect to it.

32. The assembly must be satisfied that in preparing the revised statement of gambling policy that the licensing authority has:

- (a) consulted the chief officer of police for the authority’s area; and
- (b) one or more persons who appear to the authority to represent the interest’s of persons carrying on gambling business in the authority’s area, and
- (c) one or more persons who appear to the authority to represent the interest of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act.

33. The Secretary of State may make regulations:

- about the form of the statement;
  - the procedure to be followed in relation to the preparation, review or revision of statements
  - The publication of the statement.
34. The assembly must satisfy itself that the authority has provided in details the broad principles in which it intends to apply in discharging of its functions under the Gambling Act 2005 having regards to the licensing objectives as contained in paragraph 5 above.
35. It is also important that the licensing authority's decision making processes are in accordance with section 153 of the Act as contained in paragraph 9 above.
36. The licensing authority must have in place in the exercise of its functions, principles that are in accordance with the gambling commission guidance and are not duplication of other regulatory regime so far as possible but the processes should be:
- **Proportionate:** That the authority will only intervene in the regulation of gambling activities where it is necessary. It shall ensure that remedies applied are appropriate to the risk posed. Costs identified and minimised.
  - **Accountable:** The licensing authority must be able to justify its decision and which is subject to public scrutiny.
  - **Consistent:** the rules and standard of decision making are joined up and are implemented fairly and consistently.
  - **Transparent:** The licensing authority are open and kept its regulations simple and user friendly (documents and publication can be easily obtained and available upon reasonable request), and;
  - **Targeted:** The regulation is focused on the problem, and minimised side effects that may occur in the exercise of its functions.
37. It is important that the revised statement of gambling licensing policy has in place adequate measure to ensure there will be compliance with the licensing authority's duty under the Human Rights Act 1998 so that its processes and functions are human rights compliant. The licensing authority must bear in mind when doing so that the provisions under:
- Article 1, protocol 1 – The right to peaceful enjoyment of possession. A licence is a possession in law and people should not be deprived of it except it is in the public interest
  - Article 6 – The right to a fair hearing
  - Article 8 – The right to respect for private life and family life. (Removal of or restriction of a licence may affect a person's private life)
  - Article 10 – The right to freedom of expression
- are complied with when discharging its functions under the Act.

38. The assembly is asked to consider the recommendation contained in paragraph 1 of this report and in doing so to ensure that all matters highlighted above have been adequately addressed in the statement of gambling licensing policy.

**Finance Director (Env/ET/030810)**

39. The head of services has confirmed that any costs of implementing the proposed policy can be contained within the existing revenue budgets of the division.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
Gambling Act 2005 plus associated regulations Gambling Commission Guidance for Licensing Authorities Gambling Commission Codes of Practice Consultation documents including responses received	Health Safety & Licensing Unit, C/O The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirty Read Phone number: 020 7525 5748

**APPENDICES**

No.	Title
Appendix 1	Draft Southwark Statement of Gambling Licensing Policy 2010 - 2013
Appendix 2	Summary of consultation responses

**AUDIT TRAIL**

<b>Lead Officer</b>	Gill Davies, Strategic Director of Environment & Housing	
<b>Report Author</b>	Richard Parkins, Health Safety Licensing & Environmental Protection Unit Manager	
<b>Version</b>	Final	
<b>Dated</b>	6 October 2010	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	6 October 2010	